

1 Michael Shipley (SBN 139582)
2 KIRKLAND & ELLIS LLP
3 555 South Flower Street, 37th Floor
4 Los Angeles, California 90071
5 Tel: (213) 680-8400
6 michael.shipley@kirkland.com

7 **IN THE UNITED STATES DISTRICT COURT**
8 **NORTHERN DISTRICT OF CALIFORNIA**
9 **SAN JOSE DIVISION**

10
11 Teva Pharmaceuticals USA, Inc.,

12 Plaintiff,

13 v.

14 Corcept Therapeutics, Inc., and Optime Care
15 Inc.,

16 Defendants.
17
18
19
20
21
22
23
24
25
26
27
28

Case No. 5:24-cv-03567

**DECLARATION OF MICHAEL
SHIPLEY IN SUPPORT OF TEVA'S
CASE MANAGEMENT STATEMENT**

Ctrm: 3 – 5th Floor

Judge: Honorable Beth Labson Freeman

1 I, Michael Shipley, declare as follows:

2 1. I am attorney duly licensed to practice in the state of California. I am a partner at the
3 law firm of Kirkland & Ellis LLP and counsel of record for Teva Pharmaceuticals USA, Inc.
4 (“Teva”) in the above-captioned matter. I have personal knowledge of the facts set forth herein and,
5 if called upon, could and would competently testify hereto under oath.

6 2. I make this declaration in support of Teva’s Case management Statement.

7 3. The Court’s November 4, 2024 Case Management Order set a Further Case
8 Management Conference for February 20, 2025, and ordered the Parties to submit a Case
9 Management Statement on February 13, 2025. ECF No. 63.

10 4. Separately, the Defendants noticed their Joint Motion to Dismiss for a hearing on
11 February 20, 2025. ECF No. 55.

12 5. On February 7, 2025, counsel for Teva shared a draft status report via email to
13 counsel for Corcept Therapeutics, Inc. (“Corcept”) and counsel for Optime Care Inc. (“Optime” and,
14 together with Corcept, “Defendants”).

15 6. On February 12, 2025, the Court continued the hearing on Defendants’ Joint Motion
16 to Dismiss to March 6, 2025. ECF No. 76. The Court’s order did not expressly modify its prior
17 Case Management Order or continue the Further Case Management Conference, set for February 20,
18 2025, nor did it modify the existing deadline for the Case Management Statement on February 13,
19 2025.

20 7. On February 12, 2025, having heard nothing from Defendants about their position
21 statements, Teva followed up and asked Defendants to send their inserts to the Case Management
22 Statement by 2:00 p.m. PT, so that the Parties would be in a position to finalize and file the Case
23 Management Statement on February 13, 2025.

24 8. Corcept responded that it understood that the Court had continued the Case
25 Management Conference from February 20 to March 6, 2025, along with the hearing on Defendants’
26 Motion to Dismiss. Corcept stated that Defendants would provide their positions for the status
27 report “in advance of that date.”
28

1 9. Teva responded that it was not clear that the Court had continued the Case
2 Management Conference, and regardless there was no reason for Defendants to withhold their
3 position statements from Teva.

4 10. Corcept then emailed the Court's courtroom deputy to request confirmation about
5 whether the Case Management Conference had been continued. The courtroom deputy has not
6 responded to Corcept's inquiry. At the current time, Teva is thus unaware of any positive indication
7 from the Court that the February 20, 2025 Case Management Conference, at which the parties have
8 been ordered to appear, has been rescheduled to coincide with the continued hearing on Defendants'
9 Motion to Dismiss.

10 11. Teva then followed up with Corcept and stated that Corcept's email to chambers
11 demonstrated that it is unclear whether the Case Management Conference has been continued, and
12 that the Court's November 4, 2024 Case Management Order had not been modified. Teva therefore
13 reiterated its request that Defendants send their position statements for the Case Management
14 Statement.

15 12. On February 13, 2025, Corcept responded, again refusing to provide Defendants'
16 position statements and asserting that Defendants "will provide our responsive inserts well before
17 February 27, which is the date the report is now due."

18 13. Teva responded, again stating that the Court's November 4, 2024 order had not been
19 modified, and that the status quo is that the Case Management Statement is due today, February 13,
20 2025. Teva again repeated its request that Defendants send their position statements so that the
21 Parties could file a joint report.

22 14. Corcept responded, again refusing to provide Defendants' position statements.

23 15. In an abundance of caution, Teva therefore submits a Separate Case Management
24 Statement, in accordance with Civil Local Rule 16-9.

Dated: February 13, 2025

Respectfully submitted,

By: /s/ Michael Shipley

Michael Shipley
KIRKLAND & ELLIS LLP
555 South Flower Street, 37th Floor
Los Angeles, California 90071
Tel: (213) 680-8400
michael.shipley@kirkland.com

CERTIFICATE OF SERVICE

I hereby certify that on February 13, 2025, I caused to be filed the foregoing document with the United States District Court for the Northern District of California using the CM/ECF system, and caused it to be served on all registered participants via notice of electronic filing.

/s/ Michael Shipley

Michael Shipley